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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 VALLIENT MOORE,

Case No. 2:18-cv-02190-MMD-VCF

7 Petitioner,

ORDER

8 v.

9 BRIAN WILLIAMS, *et al.*,

10 Respondents.

11 This *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 comes  
12 before the Court for initial review pursuant to Rule 4 of the Rules Governing Section 2254  
13 Proceedings in the United States District Courts. The filing fee has been paid. (See ECF  
14 No. 1-1.)

15 Following review of the petition, the Court will direct a response.

16 Additionally, within the petition, petitioner requests appointment of counsel. (ECF  
17 No. 1 at 6.) The request will be denied. There is no constitutional right to appointed  
18 counsel for a federal habeas corpus proceeding. See *Pennsylvania v. Finley*, 481 U.S.  
19 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision  
20 whether to appoint counsel is generally discretionary. See *Chaney v. Lewis*, 801 F.2d  
21 1191, 1196 (9th Cir.1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d  
22 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be  
23 appointed if the complexities of the case are such that denial of counsel would amount to  
24 a denial of due process, and where the petitioner is a person of such limited education as  
25 to be incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; see also  
26 *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The petition in this case appears  
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1 sufficiently clear in presenting the issues that petitioner wishes to raise, and the legal  
2 issues are not particularly complex. Therefore, counsel is not justified.

3 It is therefore ordered that Petitioner's request for appointment of counsel is  
4 denied.

5 It is further ordered that the Clerk shall add Nevada Attorney General Adam P.  
6 Laxalt as attorney for Respondents and shall informally electronically serve the Nevada  
7 Attorney General with a copy of the petition and this order.

8 It is further ordered that Respondents shall file a response to the amended petition,  
9 including potentially by motion to dismiss, within sixty days of the date of entry of this  
10 order, and that Petitioner may file a reply thereto within thirty days of service of the  
11 answer. The response and reply time to any motion filed by either party, including a  
12 motion filed in lieu of a pleading, shall be governed instead by Local Rule LR 7-2(b).

13 It is further ordered that any procedural defenses raised by Respondents in this  
14 case shall be raised together in a single consolidated motion to dismiss. Respondents  
15 shall not file a response in this case that consolidates their procedural defenses, if any,  
16 with their response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any  
17 unexhausted claims clearly lacking merit. If Respondents do seek dismissal of  
18 unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to  
19 dismiss, not in the answer; and (b) they shall specifically direct their argument to the  
20 standard for dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614,  
21 623-24 (9th Cir. 2005). All procedural defenses, including exhaustion, must be raised by  
22 motion to dismiss.

23 It is further ordered that, in any answer filed on the merits, Respondents shall  
24 specifically cite to and address the applicable state court written decision and state court  
25 record materials, if any, regarding each claim within the response as to that claim.

26 It is further ordered that Respondents shall file a set of state court exhibits relevant  
27 to the response filed to the petition, in chronological order and indexed as discussed *infra*.

1 It is further ordered that all state court record exhibits filed herein shall be filed with  
2 a separate index of exhibits identifying the exhibits by number. The CM/ECF attachments  
3 that are filed further shall be identified by the number or numbers of the exhibits in the  
4 attachment. The purpose of this provision is so that the court and any reviewing court  
5 thereafter will be able to quickly determine from the face of the electronic docket sheet  
6 which numbered exhibits are filed in which attachments.

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8 DATED THIS 15<sup>th</sup> day of November 2018.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE